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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,596	09/05/2003	Allan D. Rookes	85096-102 JAB	7310
23529	7590	01/04/2005	EXAMINER	
ADE & COMPANY 1700-360 MAIN STREET WINNIPEG, MB R3C3Z3 CANADA			PETRAVICK, MEREDITH C	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/655,596

**Applicant(s)**

ROOKES, ALLAN D.

**Examiner**

Meredith C Petravick

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 7-10 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 7-10, 12-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites, "the end of the slide member" and depends from claim 9. However, claim 9 does not recite a slide member but recites a rigid arm that holds the cutting mechanism in a fixed position. Therefore, it is impossible to have both the slide member and the rigid arm. Since claim 12 is so unclear it is impossible to determine what applicant was trying to claim. Therefore, claim 12 will not be further treated on the merits.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Truax et al. 4,206,580 in view of Davison 4,946,488.

Truax et al. discloses a combination of a vehicle and a cutting device including:

- a vehicle having a mount capable of mounting a front end loading bucket

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- a mounting arrangement (1)
- a housing (13) carried on the mounting arrangement in the form of an elongate body (Fig. 1) and extending in a longitudinal direction across the front of the vehicle and at a right angle to the direction of movement of the vehicle (Column 1, lines 55-57)
- a slide member (12)
- a cutting mechanism (17)
- a motor (16)
- a generally circular cover (14) over the cutting mechanism
- an actuator (19) for moving the sliding member

However, the cover in Truax et al. covers the front and rear parts of the cutting mechanism and not just the rear part as claimed.

Like Truax et al., Davison discloses a vehicle mounted cutting mechanism having a generally circular cover (20). Unlike Truax et al., the cover in Davison is generally semi circular and covers only the rear part of the cutting mechanism. Davison teaches that this allows the cutting mechanism to also cut peripherally while minimizing the hazard to the operator (Column 1, lines 20-34).

Given the teaching in Davison, it would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the cover in Truax et al. with a generally semi circular cover as in Davison, in order to increase cutting efficiency while minimizing hazard to the operator.

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Regarding claim 7, the front edge of the cover in Davison extends outwardly and rearwardly from its mount (Fig. 3).

Regarding claim 8, the cover includes a skirt in Davison (Fig. 5).

5. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Truax et al. in view of Davison as applied above, and further in view of Sheets 4,960,157.

The combination above discloses the claimed device except for providing a push bar above the cutting mechanism.

Like the combination, Sheets discloses a brush cutter with a cutting mechanism mounted to a vehicle. Unlike the combination, Sheets teaches providing a push bar (44 and 42) above the cutting mechanism. Sheets teaches that this pushes the cut brush away from the vehicle (Column 4, lines 27-29).

Given the teaching in Sheets, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a push bar over the cutting mechanism in the combination as in Sheets, in order to increase protection to the operator.

6. Claims 9-10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vohl 5,901,538 in view of Eggena 5,435,117 and Davison 4,946,488.

Vohl discloses a the combination of a vehicle and a cutting device including:

- a mounting arrangement
- a housing having a vertical plate (vertical side of 26f) and a rigid arm (26h)
- a cutting mechanism (30)

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- a motor for driving the cutting mechanism (Fig. 2)

However, in Vohl the vehicle is a tractor instead of a skid steer loader and the cutting mechanism does not have a cover.

Like Vohl, Eggena discloses a mower attached to a vehicle. Unlike Vohl, Eggena teaches that a skid steer loader is an alternative to other vehicles. (Column 1, lines 20-22).

Like Vohl, Davison discloses a vehicle mounted cutting mechanism. Unlike Vohl, the cutting mechanism in Davison has a generally semi circular cover that covers only the rear part of the cutting mechanism. Davison teaches that this allows the cutting mechanism to also cut peripherally while minimizing the hazard to the operator (Column 1, lines 20-34).

Given the teaching in Eggena, it would have been obvious to one of ordinary skill in the art at the time the invention was made would have used the cutting device on a skid steer loader instead of a tractor and given the teaching in Davison, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a cover as in Davison on the cutting device of Vohl, in order to increase cutting efficiency while minimizing hazard to the operator.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vohl in view of Eggena and Davison as applied to claim 9 above, and further in view of Sheets.

The combination above discloses the claimed device except for providing a push bar above the cutting mechanism.

Like the combination, Sheets discloses a brush cutter with a cutting mechanism mounted to a vehicle. Unlike the combination, Sheets teaches providing a push bar (44 and 42) above the

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cutting mechanism. Sheets teaches that this pushes the cut brush away from the vehicle (Column 4, lines 27-29).

Given the teaching in Sheets, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a push bar over the cutting mechanism in the combination as in Sheets, in order to increase protection to the operator.

### ***Response to Arguments***

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection. Applicant amended independent claims 1 and 9 and added new claim 15. The new rejections above are in response to those amendments.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period


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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith C Petravick whose telephone number is 703-305-0047. The examiner can normally be reached on M-T 8:00 a.m.- 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B Will can be reached on 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Meredith C Petravick  
Primary Examiner  
Art Unit 3671

December 29, 2004